

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

BARBARA FULTON,	:	
	:	21-cv-4876
Plaintiff,	:	
	:	
v.	:	
	:	
UNITED STATES OF AMERICA, VICINITY:	:	
ENERGY PHILADELPHIA, INC., CITY OF	:	
PHILADELPHIA, and JOHN DOES 1 & 2,	:	
	:	
Defendants.	:	

STIPULATION AND ORDER TO SUBSTITUTE PARTIES
AND DISMISS WITH PREJUDICE

Two cross claims, filed by City of Philadelphia (the “City”) and Vicinity Energy Philadelphia, Inc. (“Vicinity Energy”), are currently pending that name as a cross-claimant the United States Postal Service (the “USPS”) and the USPS National Tort Center (the “USPS Tort Center”). (Doc. Nos. 11, 12.) Undersigned counsel agree that: the only proper federal defendant in this civil action, including the defendant on any cross-claims, is the United States of America; the United States should be substituted for the USPS and the USPS Tort Center on both cross-claims; and all cross-claims against the USPS and the USPS Tort Center should be dismissed, with prejudice. In furtherance of this agreement, the City, Vicinity Energy, and the United States of America stipulate as follows:

1. The USPS and the USPS Tort Center are currently named as cross-claim defendants by cross-claims asserted by the City and Vicinity Energy in the

above-styled civil action asserting tort claims arising from an alleged trip and fall occurring on November 7, 2019.

2. The operative complaint in this civil action initially asserted claims for negligence against, *inter alia*, the USPS and the USPS Tort Center. (Doc. No. 18.) The United States of America was subsequently substituted for these two defendants and all claims against them were dismissed with prejudice.

3. Pursuant to the Federal Tort Claims Act, the United States of America is the only proper federal defendant for the tort claims in this civil action allegedly arising from the acts or omissions of USPS employees. *See* 28 USC §§ 1346(b)(1) and 2679(a). This includes any cross-claims.

4. The United States of America shall be substituted as defendant for the USPS and the USPS Tort Center on the cross-claims filed by the City and Vicinity Energy.

5. All cross-claims against the USPS and the USPS Tort Center shall be dismissed, with prejudice.

The City, Vicinity Energy, and the United States of America stipulate to the above and ask that the Court enter this stipulation as an order pursuant to Federal Rules of Civil Procedure 21 and 41(a)(2).

U.S. ATTORNEY'S OFFICE, EDPA
JENNIFER ARBITTIER WILLIAMS
United States Attorney



Veronica J. Finkelstein, AUSA
Counsel for the United States of
America

Dated: 2/26/22

MARSHALL DENNEHEY

/s Jon E. Cross

Jon E. Cross, Esq.
Karen E. Grethlein, Esq.
Counsel for Vicinity Energy
Philadelphia, Inc.

Dated: 2/26/22

THE CITY OF PHILADELPHIA LAW
DEPARTMENT



Amanda J. Bender, Esq.
Counsel for the City of Philadelphia

Dated: 2/22/2022

APPROVED AND SO ORDERED:

BY THE COURT

/S/ WENDY BEETLESTONE, J.
WENDY BEETLESTONE, J.

Dated: 2/28/2022